

FILED

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CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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Attorneys for Federal Defendants

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

STEVEN W. BONILLA,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
JUSTICE; UNITED STATES DISTRICT
ATTORNEY FOR SAN FRANCISCO,

Defendants.

No. C 02-0636 MHP

APPLICATION AND [PROPOSED]
ORDER TO PRODUCE GRAND JURY
MATERIAL AND DOCUMENTS

APPLICATION

The United States respectfully requests that the Court enter an order (1) permitting the United States to disclosure to David Nickerson, counsel to Steven W. Bonilla, a copy of the Grand Jury subpoena issued to Pacific Bell dated February 19, 1988, and (2) directing the Clerk of the Court to unseal the Application for Disclosure of Grand Jury Materials, the Declaration of Assistant United States Attorney Floy E. Dawson, and the Order filed under seal August 15, 1988 in *In Re: Grand Jury Investigation*, Case No. CR 88-259 MISC AJZ.

APPLICATION AND [PROPOSED] ORDER
CASE NO. C 02-0636 MHP

1 This Court previously ordered the United States Attorney's Office ("USAO") to produce
 2 any and all documents "indicating," among other things, whether a February 1988 subpoena was
 3 actually served on Pacific Bell, who served the subpoena, when it was served, and to whom
 4 documents produced pursuant to that subpoena were produced. *See* Modification of Order Re
 5 Motion for Release of Grand Jury Materials at 2. After a thorough search, the USAO has
 6 identified certain documents responsive to the Order. Those documents include a copy of the
 7 Grand Jury subpoena as well as documents that were filed under seal in *In Re: Grand Jury*
 8 *Investigation*, Case No. CR 88-259 MISC AJZ.

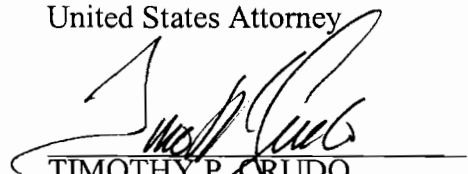
9 The subpoena itself is arguably material protected by Federal Rule of Criminal Procedure
 10 6(e). *See, e.g., United States v. Dynavac, Inc.*, 6 F.3d 1407, 1411 (9th Cir. 1993) (Rule 6(e)
 11 imposes a general rule against disclosure of 'matters occurring before the grand jury). Under
 12 Federal Rule of Criminal Procedure 6(e)(3)(E)(I), the Court may authorize disclosure of the
 13 subpoena in connection with a judicial proceeding.

14 In light of this Court's Modification Order, the nature of the documents sought to be
 15 produced, and the age of those documents, the United States respectfully submits that good cause
 16 exists to permit disclosure of the requested Grand Jury materials and to unseal the specified
 17 documents.

18 DATED: September 13, 2007

Respectfully submitted,

SCOTT N. SCHOOLS
 United States Attorney


 TIMOTHY P. CRUDO
 Assistant United States Attorney

[PROPOSED] ORDER

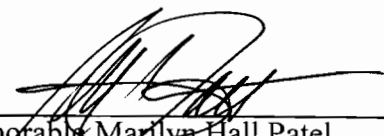
26 Based upon the above application, and for good cause appearing, IT IS HEREBY
 27 ORDERED that, pursuant to Fed.R.Crim.P 6(e)(3)(E)(I), the United States may disclose to

28 APPLICATION AND [PROPOSED] ORDER
 CASE NO. C 02-0636 MHP

1 David Nickerson, counsel to Steven W. Bonilla, a copy of the Grand Jury subpoena issued to
2 Pacific Bell dated February 19, 1988. It is further ORDERED that the Clerk of the Court unseal
3 and maintain as part of the public record the Application for Disclosure of Grand Jury Materials,
4 the Declaration of Assistant United States Attorney Floy E. Dawson, and the Order filed under
5 seal August 15, 1988 in *In Re: Grand Jury Investigation*, Case No. CR 88-259 MISC AJZ.

6 IT IS SO ORDERED.

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8 Dated: September 13, 2007

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10 Honorable Marilyn Hall Patel
11 United States District Judge
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